

MINUTES OF THE PLANNING COMMISSION MEETING OF JUNE 6, 2007 AT 6:00 P.M. HELD IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER.

MEMBERS PRESENT: Tom Bowen, Geoff Armstrong, Jim Keane, Sue Ryser, Jerri Harwell, Doug Haymore, Amy Rosevear, Gordon Nicholl

MEMBERS EXCUSED: JoAnn Frost

STAFF PRESENT: Planning Director Michael Black, Assistant Planner Glenn Symes Planning Intern Dan Johnson, City Attorney Shane Topham, Planning Coordinator Camille Petersen

OTHERS PRESENT: David Draper, Don Taggart, Brett Rowe, Kay and Jim Erwin, Dave Stapel, Bob and Sherrie Harbrecht, Joseph Scott, Todd Barfuss, Katie Cavicchio, Brad Barlage, Laura Fuller, Caroline Stevenson, Marilyn Oakley, Linda Morty, Paul Surton, James Stevenson, Karl Hunson

1.0 PUBLIC COMMENT

1.1 No public comment was received.

2.0 ACTION ITEM- ZONE CHANGE-BRETT ROWE

Chair Bowen stated this item will be continued to June 20, 2007, due to incorrect information regarding the zone change being posted.

3.0 PUBLIC HEARING –ZONE CHANGE- JOSEPH SCOTT

3.1 Mr. Symes reviewed the subject property noting that there are seven properties including 3200 East Bengal Blvd., 3271 East Bengal Blvd., 3281 East Bengal Blvd., 3283 East Bengal Blvd., 3309 East Bengal Blvd., 3325 East Bengal Blvd., and 7787 Mountain Estates Drive. The applicant is requesting a zone change from R-1-8 to R-2-8. Staff recommended approval of the proposed zone change which is consistent with the General Plan.

3.2 Paul Sutters said many of the residents in this area do not understand what the zone change would mean stated he has spoken to other neighbors who did not understand what the change in the zone would mean to the residents. Many were concerned about locating a rental property in this area.

3.3 James Stevenson said that maintaining low density residential is one of the goals of the Council and questioned why the Council is considering Medium Density.

3.4 Brad Barley expressed opposition to the proposed zone change, explaining that there are currently rental units on two sides of his property and does not believe Cottonwood Heights needs higher density.

3.5 Ms. Rosevear asked Staff to review the General Plan recommendation for this area.

3.6 Chair Bowen closed the public hearing.

3.7 Commissioner Nicholl stated the 3281 East Bengal Blvd and 3283 East Bengal Blvd. appear to be on a narrow drive and expressed concern about the increase in the amount of traffic if the proposed zone change were to be approved. He asked that this item be continued in order to gather additional information

3.8 **MOTION:** Commissioner Nicholl moved to continue this item for two weeks in order to review access issues to the back properties. The motion was seconded by Commissioner Rosevear and passed unanimously on a voice vote.

4.0 **ACTION ITEM-SHORT TERM RENTAL- HEIDI STAPEL**

4.1 Glenn Symes reviewed the subject property noting that this item was continued from the May 16, 2007 meeting. The applicant is applying for a short-term rental on property located at 8956 South Wasatch Blvd. Several issues were raised at the May 16, 2007, meeting including the number of bedrooms allowed in a short-term rental. Section 19.76.320 of the City code limits the number of bedrooms in a short-term rental to four. He noted that the Staff recommendations have changed since the May 16, 2007, meeting as follows:

Condition #2: Due to topography of the vicinity, no rear yard outdoor activity takes place from 10:00 p.m. to 8:00 a.m. at the subject property and all noise regulations listed in the Salt Lake Valley Health Department noise control ordinance are observed.

Condition #5: Upon the determination by Cottonwood Heights Planning Department that a zoning violation or a violation of any of the conditions listed here have occurred the Planning Commission will review the conditional use permit for compliance.

4.2 Chair Bowen asked the applicant if he wanted this item continued and whether or not he signed an affidavit stating that he did not receive a 48-hour notice for this meeting.

4.3 Mr. Symes stated that the applicant did sign the affidavit.

4.4 Attorney Todd Barfuss, representing Mr. Stapel, stated he would answer any questions or concerns from the Planning Commission.

4.5 Chair Bowen asked if his client had read the letter and if he was aware of the four bedroom rule.

4.6 Todd Barfuss stated his client was aware and in agreement with the four bedroom rule.

4.7 Chair Bowen stated he had read the letter from Mr. Barfuss and does not believe there is an inherent conflict of interest for Commissioner Haymore as stated in that letter.

4.8 Commissioner Haymore stated that he is refusing to recuse himself from this discussion and vote. In reviewing the Utah State Code Section 10.13.1301, he finds it is inappropriate to recuse himself because the location of the subject property is 12 or 15 homes away. Commissioner Haymore stated that this area will not affect his property value and there is no apparent conflict due to the location of the applicant's property.

- 4.9 Mr. Barfuss apologized for the letter he sent and explained that there was a miscommunication between him and his client. Mr. Barfuss stated it was initially his understanding that Commissioner Haymore lived in direct proximity to the subject property.
- 4.10 Chair Bowen opened the public comment period.
- 4.11 Teresa Ellis stated that she lives directly behind the subject property and two weeks ago the current renters were asked to be quiet. There was a negative response from the renter, so Ms. Ellis called the police.
- 4.12 Linda Monte stated that she was also involved in the discussion the night the police were called, and the night prior to the call the noise continued until 1:30 a.m. Ms. Monte said the hot tub jets are noisy and the conversations in the hot tub are loud. She questioned how the City was going to enforce the 10:00 p.m. curfew.
- 4.13 Commissioner Haymore explained that once a property is approved for a short-term rental a notice must be posted where it is visible, and the notice must include the homeowner's personal telephone number, as well as other contact numbers.
- 4.14 Ms. Monte questioned what would happen if more than four cars are parked at the rental property.
- Chair Bowen stated that the City should be informed about any compliance issues.
- 4.15 Mr. Barfuss asked if the plaque that is to be posted on the front of the house is provided by the City or if it is the responsibility of the homeowner.
- Mr. Black stated that the plaque is the responsibility of the homeowner.
- 4.16 Mr. Barfuss questioned whether a "No Parking" sign would be posted to prevent the neighbors from parking in the rental property area.
- Chair Bowen stated that no signs could be posted.
- 4.17 The public comment period was closed.
- 4.18 Commissioner Rosevear noted that any conditional use permit that is granted may be revoked if there are any violations to the conditional use approval.
- 4.19 Chair Bowen stated there is no evidence of any police reports on the subject property with the exception of a very recent report. He agreed that any conditional use permit that is out of compliance may be revoked.
- 4.20 Mr. Black stated that any complaint the City receives will be investigated by the Code Enforcement officer. If there continues to be compliance issues, the conditional use can be brought back to the Commission for review.
- 4.21 Commissioner Haymore stated that the Planning Commission cannot approve or disapprove an application based on public clamor. The Commission must look at all issues such as noise, traffic, parking, the number of people allowed, etc. He stated that Staff has recognized that there was a misinterpretation of the statute and that a maximum of four bedrooms are allowed in a

short-term rental. Mr. Haymore said that recommendation #2 should be amended to state that "...no rear yard outdoor activity can take place between the hours of 10:00 p.m. to 8:00 a.m. It currently states that the hours are 10:00 a.m. to 7:00 a.m. He said that if a hot tub or spa is located on the property it should be located at ground level and be at least two feet from the main building.

4.22 **MOTION:** Commissioner Haymore moved to approve the short-term rental subject to the following conditions:

- (1) That all conditions and standards listed in the Short-Term Rental Ordinance (Chapter 19.89) be upheld.
- (2) That, due to topographic conditions of the vicinity, no rear yard outdoor activity takes place between the hours of 10 pm and 8 am at the subject property, and if a hot-tub or spa is provided outside of the house at the subject property that the hot-tub or spa be located no more than three feet from the outside wall of the main structure on the ground level of the subject property and not on any raised deck or patio higher than six inches from the original elevation of the yard, and all noise regulations listed in the Salt Lake Valley Health Department Noise Control Ordinance are observed.
- (3) That the number of bedrooms available for use in the short-term rental be limited to four (4).
- (4) That all applicable titles of the Cottonwood Heights Code of Ordinances including but not limited to Title 9 Health and Safety be upheld.
- (5) That upon the determination by Cottonwood Heights Planning Department that a clear zoning violation, or a violation of any of the conditions listed herein, has occurred the Planning Commission will review the conditional use permit for compliance.

Second: The motion was seconded by Commissioner Rosevear.

4.23 **Discussion:** Mr. Black pointed out that there is a supplementary regulation which limits the number of bedrooms in any short-term rental to a maximum of four. He explained that this statute will be enforced and that a letter will be sent to every short-term rental in the City informing them that they will need to comply.

City Attorney Shane Topham explained that there are unique topographic concerns with this property and restrictions on the use of the backyard are designed to address the fact that this property sits higher, which allows the noise to carry further.

Commissioner Rosevear noted that she is hesitant with requiring the applicant to move the spa because it appears to be close to the main building.

Commissioner Haymore stated that three feet from the home is a reasonable distance and would keep the noise level from traveling to surrounding neighbors.

The Commission agreed to change the distance from the main building from two feet to three feet.

- 4.33 **RESTATEMENT OF MOTION WITH PROPOSED CHANGES:** Commissioner Haymore moved to approve the short-term rental subject to the following conditions:

1. That all conditions and standards listed in the Short-term Rental Ordinance and in the Supplementary and Qualifying Regulations (Chapters 19.89 and 19.76) be upheld.
2. That, due to topographic conditions of the vicinity, no rear yard outdoor activity takes place between the hours of 10 pm and 8 am at the subject property, and if a hot-tub or spa is provided outside of the house at the subject property that the hot-tub or spa be located no more than three feet from the outside wall of the main structure on the ground level of the subject property and not on any raised deck or patio higher than six inches from the original elevation of the yard, and all noise regulations listed in the Salt Lake Valley Health Department Noise Control Ordinance are observed.
3. That the number of bedrooms available for use in the short-term rental be limited to four (4).
4. That all applicable titles of the Cottonwood Heights Code of Ordinances including but not limited to Title 9 Health and Safety be upheld.
5. That upon the determination by Cottonwood Heights Planning Department that a zoning violation, or a violation of any of the conditions listed herein, has occurred the Planning Commission will review the conditional use permit for compliance.

VOTE: The motion was seconded by Commissioner Rosevear and passed unanimously on a voice vote.

5.0 **ACTION ITEM-ORDINANCE AMENDMENT- NON-DEPOSITORY LENDING INSTITUTION**

- 5.1 Glenn Symes reviewed the proposed ordinance amendment noting that minor word changes have been made since the Planning Commission last discussed this issue.
- 5.2 **MOTION:** Commissioner Armstrong moved to recommend approval of the Non-Depository Lending Institution ordinance to the City Council. The motion was seconded by Commissioner Keane and passed unanimously on a voice vote.

6.0 **DISCUSSION ITEM- CLARIFICATION OF RECOMMENDATIONS TO THE CITY COUNCIL**

- 6.1 Mr. Black told the Planning Commissioners that the City Council requested additional information on why the Planning Commissioners recommended denial for the General Plan Amendment on Big Cottonwood Canyon Road.
- 6.2 **Chair Bowen stated that with this additional information that the council did not have at the time, weather it would change anyone's view to be approved or denied.**
- 6.3 Mr. Black said that the Council is leaning toward approving the proposed General Plan amendment on Big Cottonwood Canyon Rd. from R-1-8 to Residential Office (RO). He explained that the main purpose of the Residential Office zone is to have a use that looks like a home and helps to stabilize adjacent residential properties, as well as act as a buffer to non-compatible commercial uses. The maximum building size is 10,000 square feet and maximum building height is 35 feet, which is consistent with the R-1-8 zone. Prior to incorporation this property was zoned A-1

- 6.4 City Engineer Brad Gilson reviewed trip generation information for commercial and residential developments. He explained that the traffic generated during work hours does not generally conflict with traffic that is generated from a residential neighborhood. A commercial development lowers the potential conflict with the existing neighborhood. A residential development could have as many as 15 driveways backing out onto Big Cottonwood Canyon Road which would create a substantial number of conflict points and potential accident points along the road. Commercial development would have limited access points.
- 6.5 Mr. Haymore asked if the buildings in the back would be close to the size of the homes.
- Mr. Black answered in the affirmative.
- 6.6 Mr. Black reviewed the placement of the proposed trail in this area.
- 6.7 Commissioner Rosevear questioned whether the Residential Office zone would allow for twin homes.
- Mr. Black stated that twin homes are a conditional use in the RO zone.
- 6.9 Chair Bowen clarified to the Commission that this item is discussion only and whether or not there would be a different vote from the Commission after receiving this additional information.
- 6.10 Those Commissioners in attendance agreed that the Residential Office zone lends itself to advancing the community nature of the property, provides more open space, is a better use of the land, and a better design as it relates to traffic.
- 7.0 **DISCUSSION ITEM- SITE PLAN REVIEW ORDINANCE**
- 7.1 Mr. Black stated that the Site Plan Review Ordinance needs to be scheduled for review by the Planning Commission.
- Chair Bowen stated that the public hearing will tentatively be scheduled for July 18, 2007.
- 8.0 **DISCUSSION ITEM-AFFORDABLE HOUSING**
- 8.1 Planning Director Michael Black stated that the City's Moderate Income Housing Plan was adopted two years and needs to be modified. It is a State requirement to have a plan in place.
- 8.2 Commissioner Haymore noted that the plan does not need to be modified, but Mr. Black would like to modify it.
- Mr. Black said he would like the document to be more of a plan than a statement.
- 8.3 Planning Intern Dan Johnson defined affordable housing as any household earning the Area Median Income (AMI) (\$60,000/year for SL County). Owners should not have to spend more than 30 % of their yearly income on housing. Low Income housing is defined as any household earning 60% - 80% which translates to about \$42,000/year for SL County, should not have to spend more than 30% of their income on housing.

The data for Salt Lake County shows that the AMI is \$60,000 a year for a family of 3.7. This household should not have to spend more than \$1,500 a month on housing. And a household earning 80% of the AMI should not have to spend more than \$1,200 a month on housing.

Mr. Johnson stated that the current real estate for sale in Cottonwood Heights City ranges from \$220,000- 2.3 million. The average home in the city is 536,000 based on MLS data. Mortgage expenses on a home at this price are around \$3,300 a month. This includes: property taxes, insurance, mortgage insurance.

Mr. Johnson stated that for affordable housing to be successful it needs to resemble market rate housing and it needs to be well-mixed with all other types of housing.

8.4 Mr. Black noted that Rose Park is mixing the affordable housing with market rate housing in the Guadalupe neighborhood.

8.5 Commissioner Ryser questioned how the City could stop a resident from selling their home at fair market value.

Mr. Johnson stated there were deed restrictions on the home. You would space the home out more than just every other home.

Ms Ryser asked if the key to ownership was proven.

Mr. Johnson stated that renters are not as invested in the city as an owner would be.

Ms. Rosevear asked when renters are renting the home is owned by someone else.

Mr. Johnson stated some benefits of having affordable housing in the city would be, as you age your housing needs change. A well diversified culture would be able to live near family members. Another benefit to affordable housing is the decrease in traffic and cross commuting because people would live within walking distance.

Commissioner Ryser asked if specific locations were being looked at as an affordable housing area.

Mr. Black explained that when there is condemned property the City can look at purchasing the property to provide for affordable housing.

Mr. Haymore stated he is in favor along the line of the concepts that Mr. Johnson had discussed. He is concerned that affordable housing may not be adapted appropriately to Cottonwood Heights City's built out community.

Mr. Bowen was concerned that by providing affordable housing in a development would shift the cost of the other homes in that subdivision area.

Mr. Black pointed out that affordable housing would not fit in all developments, but that there are many places in the City where they would fit in.

Mr. Haymore stated he is open to this idea.

Commissioner Ryser asked if grants are available to subsidize the cost of low income housing.

Mr. Black answered in the affirmative.

9.0 DISCUSSION ITEM-CELL PHONE TOWER-WIRELESS TELE COMMUNICATIONS

- 9.1 Mr. Black stated that the Wireless Telecommunication Ordinance needs to be modified because there is concern that the current Ordinance could prevent wireless telecommunication providers from providing proper coverage in certain areas and that the consultant could spend the required money on other things rather than reviews.

10.0 PLANNING DIRECTORS REPORT

- 10.1 Mr. Black stated that Chair Bowen came to the City Council meeting on June 5, 2007 and they went over the current development projects list. Chair Bowen will be there every month to hear the report.

11.0 ADJOURNMENT

- 11.1 **MOTION:** Commissioner Armstrong moved to adjourn. The motion was seconded by Commissioner Rosevear and passed unanimously on a voice vote. The business meeting adjourned at 8:35 p.m.

Approved: 7-18-07 sm